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**State of New Hampshire**  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
603-271-3503 FAX 603-271-2867  
TDD Access: Relay NH 1-800-735-2964



Mr. and Mrs. Albert Pessa  
160 Lake Shore Drive  
Franklin, New Hampshire 03235

Re: Logging Activities  
Franklin, New Hampshire

ADMINISTRATIVE ORDER  
No. WSPCD 96-17  
June 27, 1996

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Supply and Pollution Control Division to Mr. and Mrs. Albert Pessa, pursuant to RSA 485-A:22.

**B. PARTIES**

1. The Department of Environmental Services, Water Supply and Pollution Control Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 6 Hazen Drive, Concord, NH.

2. Mr. and Mrs. Albert Pessa are individuals having a mailing address of 230 Lake Shore Drive, Franklin, NH 03235.

**C. STATEMENT OF FACTS AND LAW**

1. Mr. and Mrs. Albert Pessa are the owners of a parcel of land located in the vicinity of Lake Shore Drive and Webster Lake identified as Lots 401, 402, 403 on Franklin Tax Map 14 and Lots 009, 015, 403 on Franklin Tax Map 15 and Lot 401 on Franklin Tax Map 32 ("the Property").

2. An inspection of the Property by DES personnel on June 24, 1996, showed the following:

- a. Uprooted trees adjacent to a stream, tributary to Webster Lake, were placed in the stream for a skidder logging crossing. Raw, erodible soil exists in the area surrounding the crossing.
- b. Work in wetlands has resulted in raw and unvegetated soils.
- c. Work on the borders of and in an unnamed brook, tributary to Webster Lake, has caused soils to remain raw and unvegetated.

**AIR RESOURCES DIV.**  
64 No. Main Street  
P.O. Box 2033  
Concord, N.H. 03302-2033  
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**WASTE MANAGEMENT DIV.**  
6 Hazen Drive  
Concord, N.H. 03301  
Tel. 603-271-2900  
FAX 603-271-2456

**WATER RESOURCES DIV.**  
64 No. Main Street  
P.O. Box 2008  
Concord, N.H. 03302-2008  
Tel. 603-271-3406  
FAX 603-271-7894

**WATER SUPPLY & POLLUTION CONTROL DIV.**  
P.O. Box 95  
Concord, N.H. 03302-0095  
Tel. 603-271-3503  
FAX 603-271-2181

- d. Waste forest products have been placed in and over the unnamed brooks, tributaries to Webster Lake.
- e. At three different locations, skidders transporting forest products have been crossing directly through the brooks, unnamed tributaries to Webster Lake, without appropriate stream crossing devices.

3. Env-Ws 415.12 requires any person proposing to undertake activities in or on the borders of surface waters of the State in areas subject to Wetlands Board jurisdiction to obtain a permit under RSA 485-A:17 by applying to the Wetlands Board for a permit under RSA 482-A

4. The areas in which the work was done which caused the conditions identified in C.2 above are subject to Wetlands Board jurisdiction.

5. The records of the Wetlands Board show no application received or permit issued for the work done on the Property.

6. Work on the borders of and in the unnamed tributaries to Webster Lake has caused siltation and sedimentation in surface waters of the State, resulting in a violation of the Class B water quality standards.

7. Crossing directly through the unnamed brooks, tributary to Webster Lake, without appropriate stream crossing devices, has caused siltation and sedimentation in surface waters of the State, resulting in a violation of the Class B water quality standards.

8. RSA 485-A:15 prohibits the placement of waste forest products into a surface water of the State.

9. The unnamed tributaries to Webster Lake are classified as Class B waters.

#### D. DETERMINATION OF VIOLATIONS

1. Mr. and Mrs. Albert Pessa have violated RSA 485-A:12, I by disposing of waste in State waters in such a manner as to lower the quality of waters below the minimum requirements established for the adopted classification.

2. Mr. and Mrs. Albert Pessa have violated Env-Ws 415.12 by failing to obtain a permit from the Wetlands Board for activities resulting in impacts to jurisdictional wetlands.

3. Mr. and Mrs. Albert Pessa have violated RSA 485-A:15 by placing or causing to be placed, waste forest products into a surface water of the State.

### E. ORDER

Based on the above findings, DES hereby orders Mr. and Mrs. Albert Pessa, as follows:

1. Immediately cease and desist any logging activities or other activities that may create raw, erodible soils on the Property except as required by Item E.2.
2. Within 10 days of the receipt of this Administrative Order, implement all temporary and permanent erosion control measures, as are required to stabilize the Property against erosion and sedimentation to surface waters of the State.
3. Obtain the necessary permit for work within jurisdictional wetlands prior to resuming logging activities on the property.

Please address correspondence to:

John R. Bush, P.E., Administrator - Wastewater Engineering Bureau  
Water Supply & Pollution Control Division  
Department of Environmental Services  
6 Hazen Drive - P.O. Box 95  
Concord, NH 03302-0095

### F. APPEAL

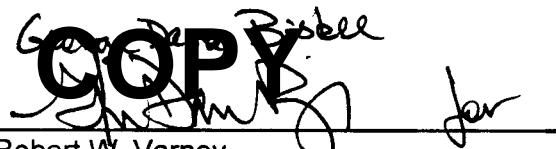
This Order is effective upon receipt. If you are aggrieved by this Order, you may appeal this decision to the New Hampshire Water Supply and Pollution Control Council in accordance with NH Admin. Rules Env-WC 200. Such appeal must be filed with the Council within 30 days of the issuance of this Order and must be addressed to Chairman, Water Supply and Pollution Control Council, 6 Hazen Drive, PO Box 95, Concord, NH 03302-0095. Filing an appeal of the Order will not automatically relieve you of your obligation to comply with the Order.

This Order is being recorded in the Merrimack County Registry of Deeds so as to run with the land.

Please note that RSA 485-A:22 provides for civil and criminal penalties and administrative fines for the violations noted in this Order.

This matter is also being referred to the New Hampshire Wetlands Board concerning potential violations of NH Wetlands regulations.

  
**COPY**  
Edward J. Schmidt, P.E., Ph.D., Director  
Water Supply & Pollution Control Division

  
**COPY**  
Robert W. Varney  
Commissioner

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RWW/GDB/EJS/DSD/mjv

CERTIFIED MAIL/RRR/ #P 163 945 847

cc: Gretchen C. Rule, Enforcement Coordinator - DES  
Steven Houran, Esq., Deputy Attorney General - DoJ  
Charles Knox - PIP/DES  
Dudley S. Dean - WEB/WSPCD/DES  
Wetlands Bureau/WRD/DES  
Robert Nelson - DRED  
William Ingham - NH Fish & Game Dept.  
John B. Wimsatt, NH Fish & Game Dept.  
Merrimack County Registry of Deeds  
James Pitts, Franklin City Manager  
Teofil J. Sokul, Franklin Conservation Commission